

A. REJECTIONS UNDER 35 U.S.C. §103

Claims 1-20 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 5,721,827 to Logan *et al.* ("Logan"), in view of U.S. Patent No. 6,501,832 to Saylor *et al.* ("Saylor"). Applicants traverse.

Saylor does not qualify as prior art under the common assignee exception as set forth in 35 U.S.C. §103(c).

35 U.S.C. § 103(c) recites:

"Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of 35 U.S.C. section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

Accordingly, Applicants contend that the Examiner's rejection is improper because, at the time the claimed invention disclosed in this patent application was made, both Saylor and the claimed invention were assigned (or subject to an obligation of assignment) to Microstrategy, Inc. As such, withdrawal of this rejection is earnestly sought.

Moreover, Applicants respectfully submit that none of the references cited by the Examiner, either alone or in combination, teach all of the limitations of independent claims 1 and 11. Accordingly, Applicants further submit that dependent claims 2-10, and 19-20 are allowable because they depend from allowable independent claims, as well as for the further limitations they contain.

B. **INFORMATION DISCLOSURE STATEMENT**

The Examiner alleges that various references listed in the Information Disclosure Statement (I.D.S.) filed December 13, 2002 fail to comply with provisions of 37 C.F.R. §§1.97-1.98 and MPEP §609 because "...dates have not been provided for the documents indicated on the USPTO form 1449, at least as to month and year." *See Office Action*, pg. 2, ¶1. Applicants disagree with the Examiner's refusal to consider certain references.

Pursuant to MPEP §609:

"The date of publication supplied must include at least the month and year of publication, *except that the year of publication (without the month) will be accepted* if the applicant *points out in the information disclosure statement* that the year of publication is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the particular month of a publication is not in issue."

***Emphasis Added.***

Applicants note that the Information Disclosure Statement (I.D.S.) filed December 13, 2002 includes this language:

"Where the publication date of a listed document does not provide a month of publication the year of publication of the listed document is sufficiently earlier than the effective U.S. filing data and any foreign priority date so that the month of publication is not in issue. Applicants have listed publication dates on the attached PTO-1449 based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the date indicated."

*See I.D.S.* (filed December 13, 2002) at pg. 1, ¶2.

Accordingly, Applicants are filing herewith a copy of the Supplemental Information Disclosure Statement and Form PTO-1449 filed on December 13, 2002, and request that the

Examiner consider and initial the copy of the Form PTO-1449 for the following references for which a year was provided in compliance with MPEP §609:

Form PTO-1449 Page Number (as filed on Dec. 13, 2002)	Reference No(s).
Page 1 of 15	1BB, 1CC
Page 2 of 15	2Y, 2Z
Page 3 of 15	3X, 3Y, 3Z, 3AA
Page 5 of 15	5Z, 5AA, 5BB
Page 6 of 15	6X, 6Y
Page 10 of 15	10R
Page 14 of 15	14B

With regard to references that were listed without dates, Applicants are re-submitting these references (with dates) with a Supplemental Information Disclosure Statement filed herewith.

This Supplemental Information Disclosure Statement is being filed more than three months after the U.S. filing date, and after the mailing date of the first Office Action on the merits, but before the mailing date of a proper Final Action or Notice of Allowance, whichever occurs first. See 37 C.F.R. §1.97(c).

Accordingly, Applicants request that the Examiner consider these re-submitted references and return a copy of the signed Form PTO-1449.


**CONCLUSION**

Having addressed each of the foregoing rejections, it is respectfully submitted that this application is now in condition for allowance. Notice to that effect is respectfully requested. In the event that the Examiner believes that a telephone conference would expedite allowance of the application, the Examiner is invited to telephone the undersigned with any suggestions leading to the allowance of the application.

Respectfully submitted,

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY, AND POPEO, PC

By:

  
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